

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

NETLIST, INC.

v.

**SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA,
INC., SAMSUNG SEMICONDUCTOR,
INC.**

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Case No. 2:22-cv-00293-JRG

**MINUTES FOR PRETRIAL CONFERENCE – Day 1
HELD BEFORE U. S. DISTRICT JUDGE RODNEY GILSTRAP
October 8, 2024**

OPEN: 09:02 AM

ADJOURN: 05:04 PM

ATTORNEYS FOR PLAINTIFF:

See attached

ATTORNEYS FOR DEFENDANTS:

See attached.

LAW CLERKS:

Brendan McLaughlin
Amy Wann
Danielle Zapata

COURT REPORTER:

Shawn McRoberts, RMR, CRR

COURTROOM DEPUTY:

Andrea Brunson, CP

<u>TIME</u>	<u>MINUTE ENTRY</u>
09:02 AM	Court opened.
09:03 AM	Court called for announcements from counsel.
09:04 AM	Court provided instructions and housekeeping matters to the parties. Case is specially set for jury selection and trial to begin Tuesday, November 12, 2024. Trial will begin following empanelment of jury. Eight jurors will be selected. Peremptory strikes: Four per side. <i>Voir dire</i> : 30 minutes per side. Trial time: 11-1/2 hours per side. Opening statements: 30 minutes per side. Closing arguments: 40 minutes per side. Court to be notified by 10:00 PM each night of disputes/objections not resolved through meet and confer efforts. Three (3) jointly prepared three-ring binders with disputed information are to be submitted to the Court by 7:00 AM the following day. The Court will be available in chambers by 7:30 AM every morning to take up any housekeeping matters or late-arriving disputes. Deposition-clip objections and/or disputes are to be taken up

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	by the Court the day before the day such deposition is to be used. Deposition clips should be accompanied by closed-captioning. Court encouraged the parties to utilize the meet and confer process during the course of the trial to resolve disputes. It is the Court's intention to bring the jury in every morning at 8:30 AM. Lunch will be brought in daily for the jurors. Rule 50(a) motions will be heard by the Court after all the evidence is in and Plaintiff rests any rebuttal case. Court will hold an informal charge conference (off the record) after the close of evidence. Formal charge conference will follow thereafter and on the record. Court reminded counsel not to refer to individuals by their first names, and to advise their respective witnesses re: same. Court instructed counsel to refer to the Court's Standing Order re: the sealing of the courtroom re: confidential or highly sensitive testimony. Court instructed the parties to follow the instructions from Deputy Clerk in Charge, Mrs. Kecia Clendening re: receipt, review and return of the Juror Questionnaires. Court instructed the parties to refer to the Court's Standing Order re: preadmission of exhibits. Parties to be prepared every morning of trial to read into the record those exhibits used prior day. Twelve juror notebooks to be delivered to chambers no later than 12:00 PM noon on Friday, November 8, 2024. Notebooks to contain: Complete copies of each patent-in-suit (Court to allow double-sided copies for this case); claim construction chart (single-sided); page for each witness with a current head and shoulder photograph, name and ruled lines for notetaking; three-hole punch notepad for further notes and a non-clicking pen. Each witness page should be tabbed for easy navigation. Expert report notebooks to be delivered to Chambers no later than 12:00 PM noon on Friday, November 8, 2024 containing printed copies of each updated expert report (single-sided) (without exhibits). Also, a digital copy be furnished to Court staff.
09:21 AM	Court addressed disagreements re: Joint Pretrial Order, made rulings and provided instruction as set forth in the record.
09:33 AM	Court began by making the following rulings:
09:34 AM	MOOT: <ul style="list-style-type: none"> • [SEALED] Plaintiff's Proffer Regarding Standard Essentiality (Dkt. No. 776). • [SEALED] Plaintiff's Motion for Summary Judgment That the Asserted Patents Are Not Standard Essential (Samsung Case No. 2:22-cv-293) (Dkt. No. 356). • [SEALED] Samsung's Motion to Preclude Evidence Regarding the Alleged Essentiality of the Asserted Patents (Dkt. No. 374).
09:41 AM	DENIED: <ul style="list-style-type: none"> • [SEALED] Samsung's Corrected Motion to Bifurcate Liability Issues From License Defense, Damages and Willfulness Issues (Dkt. No. 383).
09:42 AM	Court proceeded with hearing argument re: the following disputed dispositive motions:
09:42 AM	[SEALED] Samsung's Motion for Summary Judgment of No Pre-Suit Damages (Dkt. No. 338).
09:42 AM	Ms. Degnan presented argument for Defendants.
09:57 AM	Responsive argument by Mr. Sheasby for Plaintiff.
10:09 AM	Rebuttal argument by Ms. Degnan for Defendants.
10:14 AM	Additional responsive argument provided by Mr. Sheasby for Plaintiff.
10:19 AM	Recess.
10:30 AM	Court reconvened.

<u>TIME</u>	<u>MINUTE ENTRY</u>
10:30 AM	Court made rulings as set forth in the record re: Dkt. No. 338.
10:32 AM	Court heard argument re: <ul style="list-style-type: none"> • [SEALED] Samsung's Motion for Summary Judgment of No Willfulness (Dkt. No. 341).
10:32 AM	Ms. Degnan presented argument for Defendants.
10:48 AM	Responsive argument by Mr. Sheasby for Plaintiff.
11:02 AM	Rebuttal argument by Ms. Degnan for Defendants.
11:07 AM	Court made rulings as set forth in the record re: Dkt. No. 341.
11:09 AM	Court heard argument re: <ul style="list-style-type: none"> • [SEALED] Samsung's Motion for Partial Summary Judgment of Noninfringement Concerning the '912 Patent (Dkt. No. 353).
11:09 AM	Mr. Dryer presented argument for Defendants.
11:43 AM	Recess for lunch.
12:40 PM	Court reconvened.
12:41 PM	Responsive argument by Mr. Rowles for Plaintiff.
12:58 PM	Rebuttal argument by Mr. Dryer for Defendants.
01:02 PM	Court DENIED Dkt. No. 353.
01:03 PM	Court heard argument re: <ul style="list-style-type: none"> • [SEALED] Netlist, Inc.'s Motion for Partial Summary Judgment on Samsung's Invalidity Defenses (Dkt. No. 343).
01:04 PM	Mr. Tezyan presented argument for Plaintiff.
01:09 PM	Responsive argument by Dr. Albert for Defendants.
01:17 PM	Rebuttal argument by Mr. Tezyan for Plaintiff.
01:18 PM	Court GRANTED Dkt. No. 343.
01:22 PM	Court to CARRY: <ul style="list-style-type: none"> • [SEALED] Netlist, Inc.'s Motion for Summary Judgment Dismissing Samsung's Affirmative Defense of Laches, Estoppel and/or Waiver (Dkt. No. 342).
01:23 PM	Court heard argument re: <ul style="list-style-type: none"> • [SEALED] Samsung's <i>Daubert</i> Motion and Motion to Strike Expert Testimony of Dr. William Henry Mangione-Smith (Dkt. No. 350).
01:23 PM	Dr. Albert presented argument for Defendants.
02:13 PM	Responsive argument by Mr. Rowles for Plaintiff.
02:40 PM	Rebuttal argument by Dr. Albert for Defendants.
02:41 PM	Court made rulings as set forth in the record re: Dkt. No. 350.
02:51 PM	Recess.
03:05 PM	Court reconvened.
03:05 PM	Court heard argument re: <ul style="list-style-type: none"> • [SEALED] Plaintiff's Motion to Strike Certain Opinions of Samsung Defendants' Expert Mr. Joseph McAlexander (Dkt. No. 359).
03:05 PM	Mr. Sheasby presented argument for Plaintiff.
03:30 PM	Responsive argument by Dr. Albert for Defendants.
04:08 PM	Rebuttal argument by Mr. Sheasby for Plaintiff.
04:14 PM	Court made rulings as set forth in the record re: Dkt. No. 359.

<u>TIME</u>	<u>MINUTE ENTRY</u>
04:28 PM	Court heard argument re: <ul style="list-style-type: none"> • [SEALED] Plaintiff's Motion to Strike Certain Opinions of Defendants' Expert John B. Halbert (Dkt. No. 358).
04:29 PM	Mr. Tezyan presented argument for Plaintiff.
04:39 PM	Responsive argument by Mr. Cordell for Defendants.
04:50 PM	Rebuttal argument by Mr. Tezyan for Plaintiff.
04:52 PM	Court made rulings as set forth in the record re: Dkt. No. 358.
05:03 PM	Court to recess for the day and continue pretrial conference at 9:00 AM tomorrow.
05:04 PM	Court adjourned.